

## **A Finer Balance - An Essay on the Possibility of Reconciliation: Dilip Simeon**

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### **Introduction**

I begin this address by a simple reflection on the key words in the title of this symposium - truth, justice, reconciliation. They mean a great deal to me intellectually and emotionally, and they are always accompanied by a question mark - is there any such thing as truth, will there ever be a just society, may we dare hope for reconciliation? Like all great concepts they are too full of meaning to admit of any certitude. The title goes further - it speaks of experiments with truth, transitional justice, and processes of reconciliation. These phrases in turn, contain much food for thought, especially for Indians. It was an Indian, one of the greatest figures of the past century, who coined that germ of a Brahmasutra, “experiments with truth”, as his unique contribution to ethical philosophy. In its own way, this concept challenges the epistemological authoritarianism of market-liberalism, Leninism, and the monoliths of identity, while (in conjunction with the concept of ahimsa), suggesting an alternative to the nihilist ethics of post-modernity. The concept of transitional justice is also one to which Indian experience speaks in a special way. Our transitions are different from the stark changes in South Africa and Germany - yet they remain as painful. We are in perpetual states of temperamental, cultural, geo-political and economic transition. Our social space is suspended between tradition and modernity, we exist as a people comprised of communities and also as a democratic nation-state of individual citizens, our economy lies poised between regulation and the lack of it, our cultural and religious psyche does not know what to preserve and what to forget. Our notions of justice veer between a hierarchical sensibility that calibrates punishment according to the status of wrongdoers, and a jurisprudence that theoretically considers all citizens equal before the law. We know we are in transition. The only problem is that we don’t know where the transition is headed.

Again, the practice of reconciliation is something we desperately need to learn. Vast

areas in the sub-continent have remained under martial law for decades. The number of orphans in the Kashmir valley run into the tens of thousands. Violence and terror have acquired a seamless trajectory. Communal and ethnic hatreds lurk beneath the surface of everyday life. The glorification of “masculine” virtue is a national pastime. And yet we Indians prefer to cling to our favourite symbolised grievances than to take the smallest steps towards comprehension and resolution.

### **The Threads of an Argument**

The logic of my arguments will take the following trajectory, and base itself on the recognition that:

truth, justice and reconciliation are sorely needed;

that because they mean so many things to so many people, we must adopt certain rules of restraint and non-violence while we live and discover what they are,

that a society whose proclaimed leaders do not adhere to such rules, or have an equivocal stance towards political violence, is headed for self-destruction,

that democracy and human equality are relatively youthful concepts in the Asian polity - and even globally; that the extension of these principles to the world economy is still not acceptable to those who occupy its commanding heights,

that destitution and oppression are still the common experience of millions of people and while this lasts, the preservation of democracy is crucial to the fulfilment of modest aspirations

that reconciliation is only possible between equals, and cannot even be attempted when various conflicting parties humiliate and stifle one another

that a properly functional judicial system is crucial to social stability; and,

that judges, like the rest of us are mere mortals, and that therefore the sense of justice and fair play has to be sustained by a social ethos and enlightened public opinion.

## **“Violence”**

Systems of gross inequity are held together by and depend upon violence. This could be applied both internally and externally. The fact that ours is such a brutal age with such a large volume of human energy and resources devoted to armaments, police and paramilitaries, is an indicator of its iniquitous character. The substitution of police methods instead of an institutional, social ethic for resolving social conflict demonstrates the poverty of liberal theory. For example, the invention of a uniform, commercial common sense of the market is a manifestation of epistemic violence, one of those ‘universals’ that post-modernism prefers to ignore. The word ‘violence’ itself has become tinged with euphemism in its usage.<sup>1</sup> (I am indebted to Professor Namwar Singh for this insight). It obscures the reality of knives cutting through human flesh, warm blood on the pavement, of children screaming, of pain and fear and agony. Yes, violence is unfortunate we say, but what of all those horrific things that happen in the name of honour, glory and revenge? The language of vengeance and glory reminds me of the double peg of rum that is imbibed by soldiers prior to the act of legalised murder - it deadens the nerves to prepare us for a journey into hell. The ruling elites of South Asia have long been accustomed to the use of incendiary language in the pursuit of power.

What are the psychic roots of the normalisation of brutality? One of them, certainly, is the appeal of victimhood. One of the effects of identity politics is the conversion of all Jews, Muslims, Hindus etc into the permanent theoretical victims of their preferred enemies. Victims become interchangeable with culprits - as Hans Magnus Enzensberger points out in his book *Civil Wars*, the notion of the “innocent victim” is rendered meaningless in a situation such as that which overtook the erstwhile Yugoslavia. Women widowed by one atrocity picket the roads to prevent medical supplies reaching survivors of another atrocity. Young men take up arms to do unto others what others did unto them. And how do we define child soldiers, who are filling the ranks of paramilitaries from Sri Lanka to Liberia? Are they victims or criminals? We have to accept the uncomfortable truth that the ubiquitous language of brutality has pushed victims and perpetrators together into a seamless whole. Not

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<sup>1</sup> I am indebted to Professor Namwar Singh for this insight

only are things of terror conceived in moments of beauty, but terror is the site to which its victims return as terrorists, having rendered, in their fervid imagination, vengeance itself into an aesthetic. We are confronted with incipient fascism - the doctrine of revenge elevated to ideological status. Do we not know its consequences? In daily life we occupy a space on the edge of barbarism, despite the patina of civility and regulated forms. Every now and then we obtain a glimpse of the abyss - the schools of modern America, the killing fields of Yugoslavia, the wasteland on the West Bank, the prisons of Brazil, the streets of Soweto, the mind of the Taliban.. And here in South Asia we keep victimhood as a talisman of identity, thus ensuring that we shall never be far from that edge.

Civil society is now riven with the debate over state violations of human rights versus similar violations by the 'militants' who supposedly represent oppressed people, minorities, etc. Parochial movements also appear in a wide spectrum with their own moderate and extremist fringes who use each other with pragmatic cynicism. We invest much political energy in constructing cultural-ethnic identity as the quintessential historical Subject. We may even justify extreme forms of violence in the name of the oppressed. We transfer and preserve our most brutal impulses onto the boundary-zone provided by identity. (That is why we are so addicted to boundaries). Yet when we are faced with the consequences of our actions - which evoke further brutality - we claim protection under the banner of universal human rights. We employ exclusive language in the search for power, and appeal to an inclusive category when we need breathing space. This ethical opportunism is present in the language of statehood as well as of resistance.- remember that today's states are run mostly by yesterday's rebels. The tactical and unreflective approach to violence in the language of resistance is symptomatic of the ideological reach of pragmatism. Indeed the similarity of approach to this question across the political spectrum demonstrates the hegemony of oppression without which patriarchy and exploitation would be impossible. Violence tends to blur political distinctions - note the contemporary ideological fuzziness and blurring of distinctions between Right and Left. It also leads inevitably towards de-policisation, owing to the advent of armed bodies specialising in killing and the brutal momentum of retribution.

### **Society's Need for Critical Theory**

A dismissive attitude towards theoretical reasoning, its representation as the esoteric activity of elitist individuals, and its juxtaposition to so-called activism, is popular with many social and political activists, including those in the burgeoning “NGO sector”. Such an attitude generates cynicism, frustration and fragmentation. Whether we like it or not, humans are fated to make sense of our environment. Faced with severe social crises, we have no option but to examine systems and causes. It is not enough to seek explanations that reduce everything to “human nature”. We have to engage with the issue of structure.

Let us begin with the logic of democracy, whose idea and practice is linked to the concept of identity. The “rule of the people” presupposes that we know who “the people” are, even before we speak of their right to “self-determination”. Democracy presupposes definitions of the ‘self’, and the ideologically defined boundaries of “the people”. This issue is related to the birth of the nation-state and to the notion of sovereignty. Identity is an ideological construction and therefore, a matter of political power and class interest. For example, the slogan that the Kashmiris have a right to “self-determination” implies that the identity of Kashmiris is self-evident. The moment the issue of the identity of Ladakhis or Dogras is brought into the argument, the latent authoritarianism of unilateral definitions becomes evident. We also need to distinguish between various streams of identity - religion-based, ethnic and linguistic, etc.

The exploitation of labour has always been linked to identity. This is true with regard to the African slaves on American cotton plantations, Tamil tea-garden workers in Sri Lanka, Irish builders of British railroads, and the thousands of Indian indentured labourers, mostly of the so-called “low castes” who were sent all over the British Empire to work on plantations. Identity has played a crucial role in extra-economic oppression, serving to intensify the exploitative process. However, political mobilisation around categories whose usage fluctuates between legal, ideological and rhetorical definitions, creates confusion. The problem is whether they are used in an inclusive or exclusive manner. Thus, identity combined with the experience of labour, or in opposition to systematic humiliation can help build bridges between all oppressed people, but an exclusive usage can create division and bitterness instead. Identity is also subject to the logic of internal fragmentation, as more identities are

generated within the confines of the community being constructed. We may also note that those who speak the language of “minority rights” often ignore the rights of minorities *within* the minorities, or individual rights. In its exclusivist form, by attaching virtue and vice to entire communities, identity politics enables India’s elite to erode the rights and status of the individual citizen and thereby subvert Indian democracy. For example, when communal violence is condoned by the legal system, this implies that all of us do not enjoy equal protection under the law

Take the issue of citizenship. Is this an abstraction that needs to be done away with, and replaced by a collection of identities? The institution of citizenship is constantly undermined by the “ragged edges of reality”, but cannot, for that reason, be consigned to the dustbin. Particularly when it is under attack by social forces that find democracy inconvenient. Economic and social injustice incessantly undermines the legal, political form of equality. Citizenship cannot remain unscathed by social stigma and economic servitude. Nevertheless, legal equality should not be seen as an abstract category imposed upon ‘traditional’ communities, but as a toehold that the poor can use to actualise social democracy. Democratic constitutional rights are one of the platforms from which the working poor may defend themselves, and improve their living and working conditions. Coalitions of exclusive identity cannot accomplish this goal, for they are oriented towards symbolic rather than substantive attainments. Insofar as they accentuate authoritarian tendencies in the polity, they might even undermine the rights of free speech, association and peaceful agitation. The economy cannot function for a day without a working class, but judging from the language of today’s politics, labour as a category has ceased to exist, save as a “factor of production”. This is an indicator of the profoundly conservative ethos that has been generated during the last decade of the previous century. I have no doubt that it will change.

Critical social theory must engage with this question, as also with the possibility of a democratic division of labour at global and local levels, an economy that is not left to the supposedly benevolent hidden hand of “market forces. What of the phenomena of informality and lack of regulation that are characteristic of the Indian economy? The dominant discourses of Indian economic nationalism have always boasted about the cheapness of Indian labour. Why is this a matter of pride? The control of mindless

consumerism is one thing, but the cheapness of labour in India is achieved under the threat of destitution. Would not a more humane standard of life and work for the nearly four hundred million casual and agrarian workers and their families create a massive surge in demand patterns, and a boom for the capitalist economy? Why does this not happen, why does the regulation of labouring conditions come so low on the list of priorities for Indian planners? I suggest that they are satisfied by the self-regulatory mechanisms that are already in place, and that go by the name of tradition, convention and caste. From the standpoint of those who work, these phenomena are nothing but a structure of physical intimidation, lubricated by the customary prejudices of caste society. Prejudices against the poor are now taken for granted - thus, slums and pollution must be dealt with not by improving remuneration, working conditions and housing, but by throwing the poor out of the city precincts. Social Darwinism has taken the place of social theory.

Symptoms of degeneration are there for all to see. The lack of accountability has become all-pervasive, and is manifested as a decline of professionalism in many middle-class occupations. Elements of the medical fraternity appear to have completely forgotten the Hippocratic oath. Lengthy are the lists of policemen indicted by commissions of inquiry into communal riots who have ended up being rewarded with promotions. It is no secret that the majority of applicants to the civil services these days select Customs or Revenue (Income Tax) as their first choice out of a possible 24 professions. With due respect to those of my ex-colleagues who have devoted themselves to the maintenance of academic standards, I must say that rampant absenteeism in the teaching profession has contributed greatly to the abysmal state of university education. Massive scandals periodically shake the world of banking and the stock-markets. The political class has plumbed the depths of cynicism and criminality. But the commonly understood meaning of corruption still reduces its causes to flaws in individual character and its scope to monetary matters alone.

There is much to be said on this matter. To start with, corruption means the “perversion from fidelity”. Its meaning must also extend to the perversion of political and judicial institutions. Filling the atmosphere with communal hatred, inciting violence for political ends, suborning the loyalty of the police and military, pouring

contempt upon the rule of law, treating some citizens as less worthy of remaining alive than others, remaining in public office while criminal proceedings are pending against you, all these phenomena are also symptoms of corruption. They are part of a systemic malaise, the locus of which is the subversion of democracy for the fulfilment of privileged interests. The common-sense definition of corruption detracts from broader issues. The most important among these is the need to consider the lack of regulation as a systemic, not an individual problem.<sup>2</sup>

There is another burning issue that could do with critical reflection. For many years, the Indian secular tradition tended to treat communalism as a collection of discrete religiously- oriented ideologies, some less dangerous than others. This was a massive analytical failure, one that strengthened the incipient fascist tendencies on the rampage today. Historically, fascism based itself on fabricated and exclusive ethnic identity. However, the multifarious nature of ethnic differentiation in India gave Indian fascism its segmented character, which is its greatest strength. Communalism (which I understand as the Indian version of fascism) was always *one phenomenon with different manifestations rather than an arithmetical total of Hindu, Muslim, Sikh etc., communalisms*. Its self-sustaining tendency derived precisely from this apparent discrete structure, with each reproducing the other. We need to abstract from its compartment-like appearance, and concentrate on its generic uniformity. Indian fascism's ideological method defines democracy in arithmetical rather than institutional terms, despises democratic values; and accords superiority to hateful ethnic mobilisation over the requirements of civic order and criminal justice. It uses so-called traditional values to express a fear of women and hostility to gender equality; it also glorifies violence as a 'masculine' virtue. Once we have comprehended the fundamental unity of all communalisms, we may understand that the Partition of India in 1947 was the achievement of Indian, rather than Hindu or Muslim communalism. Vinayak Damaodar Savarkar was as much a believer in the Two Nation theory as Mohammad Ali Jinnah.

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<sup>2</sup> This ideological beguilement in matters of intense public concern is not confined to India. It has been suggested that "the taking of bribes by government officials in these (East European) countries can be viewed with equanimity to the extent that it at least indicates an understanding of how market forces operate in a liberal economic environment": *Transparency International Newsletter*, September 1996, cited by Harry Shutt, *The Trouble with Capitalism - An Enquiry into the Causes of Global Economic Failure*, Zed Books, London and New York, 1998, p. 168.



Finally, we urgently need an understanding of political conservatism. The conservative world view is not blindly opposed to things foreign - despite its sanctification of domesticity to the level of virtue - it is inconsistent in this regard. Technology is acceptable, as long as it may be bent to the needs of state violence. Thus pragmatism shows itself to be a natural adjunct of conservatism. Nor is it opposed to violence - even of the extra-judicial variety. It is important to stress that the *today's Indian and South Asian elite is quite amenable to the pragmatic deployment of political violence*, just as long this violence is not directed at their economic privileges. Narratives of hurt religious sentiment, racial victimisation and thwarted imperialist destiny are the means by which the high and the mighty seek legitimisation for extra-judicial violence.

### **The Perils of Absolute Truth**

A major problem is the appeal of the notion of Absolute Truth. That this or that “revealed truth” is the last word in perfection is a state of mind incompatible with intellectual growth and the democracy of the intellect, which to my mind are major markers of social progress. They also conduce to authoritarianism and violence, emanating from both the state and its opponents. Among the many reasons for the eclipse of Soviet socialism was its paranoid stance towards ideas, its tendency to control and suppress the rich Russian intellectual heritage. Communist systems became too akin to the structures of medieval catholicism. Mixed with traditions of Tsarist absolutism and caesaro-papism (the confluence of state power with religious authority), it became its own worst enemy. Hegel’s “cunning of reason” stood the first Marxist state on its head. The sin of hubris - in this case of the Left - brought nemesis upon it as it will upon all those who claim that infallible knowledge gives them the right to commit irrevocable deeds. This includes the neo-conservative currents that seek to hegemonise race, religion, sentiment and identity in order to perform a demolition job on democracy. No, it is better to accept the tentative nature of truth, and strengthen our search with restraint of body and spirit.

The latest avatar of epistemological absolutism is the elevated status of sentiment in Indian popular and political discourse. (*Hamari bhavnaon ko thes pahunchi hai* - Hindi for ‘our feelings have been hurt’ is our most popular phrase). The practitioners

of wounded sentiment have attained political power in recent years, and the country is agog with their success. Sundry politicians have busied themselves in the excavation of things and matters to attach to their outrage. The most significant consequence of this trend is the justification that self-appointed guardians of morality have obtained for violence and defiance of law, for cultural policing, book-burning, and the intimidation of artists and creative activity in general. Film screenings have been disrupted, writers and painters threatened and beaten up, academic work and speculation subjected to the promise of dire consequences. These tendencies have their resonance in the realm of the mind. By valorising particularity, fragmentation and multiplicity in an imbalanced manner and at the cost of the quest for wholeness, the so-called post modern sensibility has contributed to the erosion of moral values and the rise of ethical nihilism.

Truth is the whole, said Hegel - this for me is another reminder of the need for balance. But the balance that is akin to truth is not the mere weighment of equal amounts, an artificial and abstract middle ground of vacuous neutrality. It is based rather on an acknowledgement of the multifarious nature of historical experience, the recognition of complexity and a capacity to exercise judgement. But to judge one has to possess a standard of judgement, one that holds good in practical terms, even after the acceptance of difference. That practical standard can only be non-violence. This truth engenders growth in human wisdom, and the transcendence rather than negation of the past. It is that which stares us in the face, but we are too cowardly to recognise, for fear of losing face, losing innocence. Is it so difficult for left-wing intellectuals to acknowledge that horrible crimes were committed in the name of workers liberation? For nationalists to see the evil that their nation is capable of? Revanchist forms of history-writing are asserting themselves the world over, from Germany to Japan, Russia to Britain. Justifications are produced for colonialism, imperial conquest and even racism. Having overcome the paranoia of the Cold War the western world is inventing novel reasons for keeping the military-industrial complex in business. Today in India we have a government bent upon replacing historical thought altogether, save for a litany of complaints about invaders invariably represented as Muslim. We are dangerously close to elevating communal prejudice to the level of state ideology. In Pakistan, on the other hand, history lessons begin with the arrival of Islam; the ideological foundation of the state is

focussed on an animus towards India and Hindus, and the impossibility of co-existence. If the very structures of power are so dependent upon animosity, how may we hope for reconciliation?

### **Justice and the judiciary**

It is difficult to speak of the system of justice without a sense of despair. Indian justice does not have much to do with the truth these days. A notorious case of caste prejudice causing a miscarriage of justice is that of Bhanwari Bai, a village-level social worker or *sathin* in Rajasthan, who was employed under the Women's Development Programme for implementing official policy on empowerment. This included the prevention of child marriage and female infanticide, the protection of rape victims, and issues in health and education. On September 22, 1992, Bhanwari was gang-raped in the presence of her husband (who was severely beaten) by five upper-caste men incensed by her campaign against child marriage. The dilatory tactics of the police in response to her complaints were a personal ordeal, but the 1997 judgement of the Trial Court acquitting the rapists caused dismay among women's organisations. The judge averred that no Indian rustic would stand by while his wife was being raped, so the complainant must have lied. He added that being "upper-caste" the alleged offenders could not have touched, much less raped a "low-caste" woman. Cases of molestation of "low-caste" women by "upper-caste" men in India are legion - yet this fact made no difference to the learned judge.

In November 1984, there took place one of the most shameful events in independent India's history. Thousands of law-abiding citizens who happened to be Sikhs were murdered most brutally by mobs supposedly acting out of spontaneous outrage at the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards. Several leading Congress politicians were among those named by witnesses (mainly Sikh women). It took years for First Information Reports to be filed, and years more for cases to be brought to trial. The procedure became subject to intrigue and manipulation, with several accused being let off on procedural grounds such as late filing of complaints. This despite the fact that the judges were empowered to condone these delays in light of the trauma which these women had undergone. Twelve commissions of inquiry into various aspects of this pogrom (euphemistically named 'November riots') have had their say - the latest is still at work. The first of these, the

Ranganath Mishra Commission, severely indicted the police for deliberately omitting the names of influential persons while filing complaints, dropping serious allegations, and pursuing investigations in a perfunctory manner. Needless to say, all the senior politicians involved in these events have been acquitted. There have been a handful of convictions of less privileged individuals among the accused. Since there is no witness protection programme in India, the families of under-privileged victims of violence have no means of resisting intimidation. Some of these politicians have been re-admitted into the Congress Party and will doubtless be campaigning in the next elections in the name of secularism and national unity. Till date the Indian Parliament has not had the courage of conscience to pass a resolution condemning the mass murder of Indian citizens and condoling the surviving families. Our criminal justice system has enabled the guilty of 1984 to get away with mass murder.

On September 28, 1991, Shankar Guha Niyogi, beloved leader of the most influential autonomous workers' union in the country was murdered in his sleep. His was a non-violent movement popular with large numbers of contract labourers and miners, and irksome to the capitalists and liquor contractors of the area around the Bhilai Steel Plant. A dramatic trial resulted in the Trial Court convicting three prominent industrialists and their accomplices for murder. - the first case of capitalists being jailed for killing a union activist. The Jabalpur High Court has since struck down the conviction. The case is in appeal before the Supreme Court.

In December 1992 the Babri Mosque in Ayodhya was destroyed in an act of mob frenzy, in culmination of a campaign for its 'removal' by the leaders of the main party in the current ruling dispensation, the BJP. Hundreds of citizens perished in the (certainly foreseeable) riots that followed all over the country, including Bombay. Leaders of the various organisations that participated in the event have since claimed and disclaimed responsibility depending on where and to whom they have spoken. The claims of logic and public morality have been subjected to verbal callisthenics bordering on artistry. The mosque was not really a mosque (we thought the whole point of the campaign was that Emperor Babar had erected a mosque upon the ruins of a demolished temple); it was a "disputed structure"; it had really become a temple in 1949 when idols miraculously appeared inside it (in which case the accused actually demolished a temple); it was not demolished at all, but blown up by a bomb,

etc. The criminal case against the forty-nine leaders of the BJP and its familial organisations has not yet been brought to trial, the framing of charges has been delayed for years, and the latest development is the suspension of charges against some of the (most distinguished) accused by the Lucknow High Court on account of a technicality. These persons include the Union Home Minister and the Union Human Resources Development Minister. The technicality is unlikely to be rectified as the state government is controlled by the BJP. Meanwhile the Hindu priest looking after the idols in the “disputed structure” was allegedly murdered, and nothing much is remembered of him except that he had opposed the entire campaign. On April 30, 2000, Subhash Bhushan Sadh, an official from Uttar Pradesh, the state where the demolition took place, boarded a train carrying documents vital to the Ayodhya case. He was to deliver these to the Liberhan Commission inquiring into the events surrounding the demolition. As the train neared Delhi, the man was allegedly pushed out of the train, and told the police so in a dying declaration. He also revealed that his luggage contained important files. But the documents had mysteriously disappeared. I doubt that the truth of this episode will ever be known. I hope I am wrong, but I also doubt that the accused will ever face trial, let alone be punished.

In January 1996 a young female law student Priyadarshini Mattoo was raped and murdered in her flat. The accused was a fellow student who had been stalking her for months. He also happened to be the son of an inspector-general of police. Written complaints had been filed against him, and Mattoo had been given police protection. The accused had been seen at the venue of the crime shortly before her murder. Despite the overwhelming evidence, (stalking, making threats over the phone, shouting at her in public), he was acquitted on December 3, 1999, because of a series of “lapses” by the prosecution. The judge noted the prosecution’s attempts to weaken its own case. He faulted the Central Bureau of Investigation for not following procedure, for hiding evidence such as a fingerprint report, for fabricating evidence in favour of the accused. He speculated that “the CBI during trial knowingly acted in this manner to favour the accused.” He recorded the attempt by the Delhi police “to assist the accused during investigation and also during trial. .. [Their doings] suggest that the rule of law is not meant for those who enforce the law nor for their near relatives.” The judge came to the astounding conclusion that, “Though I know [the accused] is the man who committed the crime, I acquit him, giving him the benefit of

the doubt." What a record for the police! A young woman goes to them for help, is raped and killed while under their protection, the main accused is the son of a senior policeman, and is acquitted. Another case of a young man killing a young woman in a fit of rage is in progress while I write - the Jessica Lal case. Those interested may observe the course of Indian justice - the young man and his associates have powerful connections, prosecution witnesses are turning hostile, and we may rest assured that some mystery will envelop the stark evidence. Who then killed Priyadarshini Mattoo? Did Jessica Lal drop dead of her own accord? Who knows? Who cares?

There are thousands of cases of miscarriages of justice in India. One may praise the honesty of the judge in the Mattoo case but lay citizens might well ask him - if he was convinced of the guilt of the accused why did he acquit him? Without doubt there are magistrates and judges who perform their functions with commitment. However, in all good conscience I must ask my fellow citizens - are not judges part of society and susceptible to human failings? Are they not accountable before the Constitution and provisions of law? May not the citizenry criticise the decisions of the courts when these are found wanting in truth? I believe the courts are an institution larger than and not reducible to the persons occupying them. Is it not possible, then, hypothetically, that a judge too is capable of contempt of court? And is it not true that dereliction of duty in law-enforcement agencies will contribute to anger, frustration and conflict in society? Is it really possible for the criminal justice system to effectively pursue a case wherein the Union Home Minister himself is a prime accused? The structural defects are glaring - the low status and lack of autonomy of the offices of public prosecution, the absence of witness protection, and the susceptibility of police investigations to political interference are high on the list. India is undergoing massive transformations in economic orientation - these changes are already causing many disputes in matters of labour rights, protected tribal lands, shady deals and contracts. The poorer classes of Indians will have absolutely no recourse left if the courts fail them. If the system of justice does not improve drastically we shall move further from any chances at social stability and reconciliation.

### **The Conditions of Reconciliation**

In a brilliant novel entitled *The Reader* published in Germany six years ago,

Bernhard Schlink tells a story of a teenage boy who has a secret love affair with a woman in her thirties, who disappears mysteriously, only to reappear in a court case for being a guard in an SS slave labour camp. She is tried for the murder of Jewish prisoners, and sentenced on the basis of a report for which she avowed the authorship. Only the protagonist knew she could not have written what she claimed, because only he knows the secret of her illiteracy. But he keeps silent. He sends her audio-taped books for the long years she is in prison, and over the years she learns to read. She makes a small bequest to a Jewish foundation in atonement for her role as a cog in the wheel of the Nazi system. In the end she commits suicide, the day before he was to bring her out into the normal world. *The Reader* leaves us wondering about the meaning of guilt, remorse, punishment and redemption.

Many of our favourite symbols and fables are attached to a grievance, either artificially or intrinsically. It would seem that the very act of self definition conjures up injured innocence and righteous grief. How may we deal with this situation? The Papacy may indeed see fit to apologise to the ghost of Galileo five centuries after his incarceration, and to the Greek Orthodox Church eight centuries after the sack of Byzantium. But how far can we go along this road? Who will apologise to whom for the Inquisition, colonialism, fascism and war? Ought we, on the other hand, to sit quiet when the current generation of Japanese children are taught that the Japanese occupation of East Asia in the 1930's was an act of altruism? That only Hindus suffered the loss and violence of Partition? That only Muslims did? What is the proper balance between remembering and forgetting?

Let me try and answer this. Reconciliation is neither the perpetual nurturing of grievance nor the cultivation of amnesia. It requires transcendence, which implies preservation as well as negation (as in rising above, leaving behind). It does not require us to be neurotic - rather it is the cure for collective neuroses and emotional indigestion. Nor does it deny that humans are nostalgic beings attached to their history. Reconciliation is a decision, based upon an acknowledgement of the truth as far as we may know it. (The 'final' truth of anything will always remain elusive, but may we not commit ourselves to searching for, experimenting with the truth?). It is also the repudiation of collective guilt - the descendants of racists are not responsible for racism. However, reconciliation cannot be based upon a denial or manipulation

of the facts. May we claim, for example, that there was no such thing as the Holocaust, that the fire-bombing of Dresden and the atom-bombing of Hiroshima were simple military necessities? The last issue of *Time* magazine in 1999 summed up the history of the 20<sup>th</sup> century as a victory of “free minds and free markets over fascism and communism”. Along with Clinton’s essay in the same issue, it represented the Allied victory in World War II as an American one, completely ignoring the role of the Red Army and the life sacrifice of twenty million Soviet citizens, compared to less than 300,000 Americans. Is this kind of megalomania conducive to a reconciliation between peoples?.

May we say that Stalinist purges and terror were a pure invention of the imperialists, that the Red Army committed no atrocities in Central Europe in 1944, that the US committed no war crimes during the Vietnam war, that the Pakistan Army never massacred civilians in Bangladesh, that the Indian Army has committed no atrocities in the North East and Kashmir, that China has an unblemished human rights record in Tibet (not to mention Tien An Men), that the RSS and its ‘family’ had no intention of destroying the Babri Mosque, that no temples were ever destroyed by medieval Muslim rulers? May we insist that the UNO in 1948 gave Israel the right to forever expand its borders, create settlements and impede the emergence of a Palestinian state, that Hitler had the right idea about how to deal with “the semitic races”? (This is the opinion of the ideological forefathers of India’s ruling party. Israeli citizens may not be aware that among their closest admirers in India are those who believe in Adolf’s ideals and methods). May we claim all these things and still expect sweetness and light all round? Individuals are free to adopt such views but danger looms when they are incorporated into common sense. Historical knowledge has to be pursued with respect, balance and freedom from the fear of cultural and intellectual policing of whichever variety. This can only be done by treating both its fortunate and evil moments as part of a common heritage, by transcending the attachment to particularity that makes us deny the hateful things done by some of our ideological or ethnic ancestors

There can never be any peace and reconciliation without the adoption of non - violence on the part of the resisters and the acceptance (without resort to state terror), of the loss of privilege on the part of the powerful. Reconciliation is only



possible between equals - equals in spirit if not substance. The very act of reconciliation elevates the dignity of the parties concerned, and establishes their basic humanity. But has the spirit of democracy truly pervaded the political ethos of the world? Until a few years ago the Prime Minister of Great Britain could scarcely conceal her sympathy for apartheid. Throughout the decades of the cold war the western world treated racism as some kind of counterpoint to communism (our scoundrels vs theirs). The reigning US Supreme Court recently decided that the right to vote and be counted was less important than the fulfilment of formal procedures. Hierarchy and caste prejudice still overshadow the implementation of justice in India. Until this fundamental illiberality is discarded by those who command power and substance in the modern world, there can be no reconciliation. *Is it not true that the very question of a Truth and Reconciliation Commission only arose after the acceptance of adult suffrage by the rulers of South Africa?* It is only when we recognise the dignity of our interlocutors that we may begin the psychic task of healing. Such recognition must be founded upon truth, for truth liberates. The great among us are those whom every effort to humiliate leaves unscarred. Their dignity is unimpeachable - they are always equal in spirit, even when they are held in chains. Who can forget Nelson Mandela, who left behind 27 years of incarceration without a trace of bitterness in his soul?

### **Truth and Solitude**

Human beings are fated to face some life crises solely as individuals. This is a commonplace. However there are some whose solitude in extremis will reverberate through the centuries. Jesus Christ, we are told, was one such. His life work is historically unverifiable, but it is a moving and passionate story. And the truth of it still eludes us ("What is truth?" asked jesting Pilate, and would not wait for an answer). Gandhi was another solitary seeker after truth. The man known as the Mahatma had a premonition of his assassination, and made a lonely decision to face it without state protection, in order to deliver his final message. What must have passed through his mind when he saw a young man shoot him at point blank range? Generations will remember the loneliness of these singular individuals, as if to compensate them for the oversight of not sharing their agony when they needed solace as mere mortals. This posthumous respect is a leavening agent for the conscience of the living - to surround the sacrifice of a great soul with a crowd of

memories becalms us somehow. Our collective remembrance enters the realm of public conscience, of the civic ethos and acts as a lever of restraint. And reconciliation. These were extraordinary human beings, whose lives were antidotes to the rampaging disease of injustice on a monumental scale.

Let us remember too, the millions of ordinary heroes and heroines in the past century. I think of the soldiers of opposing armies who saved each other amidst the trenches of the Great War of 1914-18, a phenomenon then named fraternization. (With what gentle yet striking irony did nature mark the bloodshed by placing red poppies in the mud of battlefields!). History also reminds me of Russian women in the late 1940's who rebuilt a devastated country and wept at the rare sight of young men; the victims and survivors of the Holocaust; the thousands of men and women in India during Partition who retained their humanity when everyone around them was conscious only of community.

What of those whose solitude is not leavened, but exacerbated by time, whose pain is of no consequence because they were neither prophets nor leaders, because they never left footprints on the sands of history? When all is said and done and I look back upon the violent century just gone by, I am burdened with the memory of a man whom posterity has rewarded with erasure, but whose sacrifice (when we bother to remember him), challenges us with profound and disturbing reflections. I do not know what practical lesson to draw from it. All I can do is pay homage to the unknown artisan named Johann Georg Elser whose monumental courage and love of humanity was and is enough to redeem the conscience of the German people, the honour of the German working class, and to contribute to the reconciliation of the German present with the German past.

I shall tell his story extempore (refer to the appendix)

In truth, Indians need justice and reconciliation to cross our bridges. How long shall we remain suspended in transition? When will Hindus and Muslims tire of stereotypical images of one another and perceive the ambivalent character of all human beings and cultures? When will our ritually 'pure' elite recognise caste prejudice as a barrier to social growth and human development? When will we stop

murdering little girls in the womb and in infancy because the stupid masculinity of our great culture obscures the oneness of the human race? Let us strive for the finer balance, the balance between the need for acknowledgement and the need to transcend what has been acknowledged, between the requirements of social order and the necessity of human dignity, between the continuity of institutions and the urgency of transformation, between the anger of resistance and the compassion without which resistance only generates further oppression. It is that balance alone that may strengthen a feasible version of transitional justice. Justice is too important to be left to the judges. It is nothing less than a matter of human survival.

Dilip Simeon

### **Appendix : In Memory of the True Antagonist**

On July 20, 1994, a syndicated article from Hamburg, entitled 'Hitler escaped assassination by a few inches' was reproduced in India. It was written in memory of Colonel von Stauffenburg, the man who carried out the ill-fated bomb attack on Hitler at his Eastern headquarters in 1944. The aristocratic officer was indeed a brave man, whose actions demonstrated the intense dismay that Hitlerism had caused within the German Army. But the statement that his attempt "was the closest anyone in Nazi Germany ever came to assassinating the fanatical dictator" is not true. Stauffenburg is justly remembered, but another German has been erased from the literature of resistance, although his plan came within minutes of saving the world from the horror of the second world war. It was a plan of greater significance than that of the conservative opposition, which became activated only when faced with military annihilation.

That other German was Johann Georg Elser (1903-1945), an artisan who had trained in carpentry and metalwork, became a cabinet-maker in 1922, and worked in clock factories through the twenties. In 1928 he had joined a Communist-led trade union as well as a front organisation called the RFK. He had been uninterested in ideological matters, attending few meetings and spending more of his time flirting and playing music with a patriotic dance band. After Hitler's ascent to the Chancellorship in 1933, Elser's political contacts ceased altogether. In 1936 he took

up employment in an armaments factory. In autumn 1938, some months after the annexation of Austria and just before the Munich conference, this unknown man made the remarkable decision to assassinate Hitler. His resolve stiffened after the vivisection of Czechoslovakia : he knew that the Nazis were driving Europe towards war.

Working alone, Elser began stealing explosives from his factory. Learning that Hitler was due to address the Nazi Old Guard on November 8 in a Munich beer hall and restaurant called the Burgerbraukeller, he attended the occasion and observed the Fuhrer's movements. He then decided to plant a time-bomb in a pillar near the speaker's rostrum. In March 1939, shortly after the Nazis annexed what remained of Czechoslovakia, Elser resigned his job and returned to Munich with his life savings of 400 marks. He acquainted himself with the beerhall, and took up residence at his parental home in Konigsbronn. Confiding only in his father, he worked briefly in a stone quarry, augmenting both his knowledge and stock of explosives. From May 1939 onwards, he designed his device, and in August he rented cheap accomodation in Munich.

On August 5, 1939, Johann Georg began implementing his plan. Each night he would eat dinner in the beerhall, hide himself in a storeroom until it closed, and then emerge to work for some hours on the stone pillar inside which he intended to plant his bomb. He worked like this for over thirty days, constructing a hollow space of 80 square centimetres with a small hinged door, neatly fitted to avoid detection. The space was lined with tin to prevent accidental damage caused by a nail being driven into it, and with cork, to muffle the sound of the clocks. Two clocks were planted to make doubly sure the device did not fail. He carried all the rubble out in his hands every night, and because he was working on his knees, they soon became septic. On Monday, November 6 1939, he set the mechanism to explode at 9.20 pm on Wednesday the 8th. Down to his last ten marks, he took 30 marks from his sister in Stuttgart, inspected the device on Tuesday, and then proceeded to Constance, on the Swiss border.

Hitler appeared on Wednesday, but cut short his speech to less than an hour, ending it before 9.10 pm, and leaving immediately thereafter. The bomb exploded at 9.20,

killing a waitress and six members of the Nazi party. About sixty persons were injured. A gap of less than ten minutes had intervened to save Hitler and to seal the world's fate. Elser was examined by customs officials at the Swiss frontier, and was found carrying a picture postcard of the Burgerbraukeller, notes on munitions factories, and his old RFK membership card. This was his one mistake, motivated perhaps, by sentiment. It was to cost him his life. He was detained on suspicion of being a spy and sent to Munich. Meanwhile the Gestapo had launched a manhunt for the unknown bomber. On November 13, after learning that the device had been planted at floor level, the head of the investigation asked to see Elser's knees. He confessed after fourteen hours of interrogation.

Hitler himself, and Himmler, the head of the Gestapo, refused to believe the confession. On the 9th, two British secret agents had been arrested near the Dutch border, and the Nazis were keen to use the bomb episode for anti-British war propaganda. Moreover, it was politically damaging for them to admit that a German worker had planned and executed such a coup. Elser was subjected to another prolonged interrogation in Berlin, by which time his family had been rounded up. Despite brutal torture, he refused to doctor the truth, which was that he had acted alone; or to implicate anyone else. He was kept alive for the duration of the war as Hitler's 'special prisoner', in order to give credence to a 'British plot' to be fabricated in a trial the Nazis planned to hold after their victory. When defeat stared them in the face, he was shot by guards on April 9, 1945.

In Elser's presence, reported the Gestapo, "one completely forgot that one was in the presence of a satanic monster". Coming from such a source, that comment is testimony to the ordinariness of this man. In his book *The Fuhrer and the People*, the Czech literateur J P Stern has written that to find Hitler's true antagonist, "we must look for a Nobody like himself, one who, sharing his social experience, yet lived and died on the other side of the moral fence." (We must thank this professor for giving Elser his due place in the historical record). Elser had the stubbornness to refuse to salute the swastika, to leave rooms when Hitler's speeches were being broadcast, yet his motivations remained unintellectual. Doing something meant to do something with his hands.

Johann Georg broke down under torture, saying that if his plan had not succeeded, it was because it was not meant to succeed. May we blame a man in his desperate position for trying to survive? We also learn from the archive that he had begun attending church during the months prior to November 1939, making no distinction between Catholic and Protestant churches. He had prayed more, in order to feel more composed, and had convinced himself that he would go to heaven "if I have had the chance to prove by my further life that I intended good. By my deed I wanted to prevent even worse bloodshed". Stauffenburg had his comrades. Elser had no one. This inconspicuous man chose to act for decency, justice and humanity, and into his deed he put the soul of the meticulous German artisan. As Stern says, the fact that he trusted nobody is a discredit not to him but to the world he lived in. That few know of his existence till this day is a comment on our own times. Let us salute the memory of Johann Georg Elser, the little man with the great heart.